

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

DAVID K. SMITH,

Plaintiff,

v.

STATE OF OHIO,

Defendant.

Case No. 2:16-cv-154

JUDGE GREGORY L. FROST

Magistrate Judge Elizabeth P. Deavers

ORDER

This matter is before the Court for consideration of the Magistrate Judge's February 25, 2016 Order and Initial Screen Report and Recommendation (ECF No. 2) and Plaintiff's objection (ECF No. 4). In her Order and Initial Screen Report and Recommendation, the Magistrate Judge conducted an initial screen of Plaintiff's complaint and recommended that the Court should dismiss this action for lack of jurisdiction and because Plaintiff has failed to state a claim upon which this Court can grant relief. Plaintiff objects to this recommendation. Briefing on the objection has closed, and the Order and Initial Screen Report and Recommendation and the objection are ripe for disposition.

When a party objects within the allotted time to a report and recommendation, the Court "shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b). Upon review, the Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1).

Plaintiff's objection fails to present any grounds for not dismissing his case. Plaintiff requests "another look" by the Court and indicates that various attachments to the objection prove the allegations of his complaint. (ECF No. 4, at Page ID # 15.) But this misses the point.

The Magistrate Judge did not recommend based on disbelieving the factual allegations of the complaint. Rather, the Magistrate Judge recommended dismissal because this Court should not exercise jurisdiction to intervene in ongoing state court proceedings or to issue a civil judgment that would necessarily imply the invalidity of a state court conviction or sentence. Additionally, the Magistrate Judge explained that immunity applied and that Plaintiff had failed to satisfy the pleading requirements necessary to present a plausible claim. All of the Magistrate Judge's reasons are legal in nature, not contingent on whether the factual allegations of the complaint are true. Plaintiff has therefore failed to present any specific objection targeting the actual reasons for the recommendation—the legal analysis and legal conclusions of the Magistrate Judge. This Court has independently reviewed the filings and agrees with the Magistrate Judge's identification and application of the applicable law.

The Court therefore **OVERRULES** Plaintiff's objection (ECF No. 4), **ADOPTS** and **AFFIRMS** the Order and Initial Screen Report and Recommendation (ECF No. 2), and **DISMISSES** the complaint for want of jurisdiction and pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). The Clerk shall enter judgment accordingly and terminate this case on the docket records of the United States District Court for the Southern District of Ohio, Eastern Division.

IT IS SO ORDERED.

/s/ Gregory L. Frost
GREGORY L. FROST
UNITED STATES DISTRICT JUDGE